

BOARD OF APPEALS CASE NO. 5025

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BEFORE THE

APPLICANT: LWR LLC

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ZONING HEARING EXAMINER

**REQUEST: Variance to locate a billboard
sign in the R4 District; 2501 Willoughby
Beach Road, Edgewood**

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 4/5/00 & 4/12/00

HEARING DATE: May 17, 2000

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Record: 4/7/00 & 4/14/00

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ZONING HEARING EXAMINER'S DECISION

The Applicant, LWR LLC, is requesting a variance to Section 219-15 of the Harford County Sign Code to allow placement of a two-sided, off site project development sign to advertise the sale of homes in the Lord Willoughby's Rest subdivision, which is located in an R2/Urban Residential District. Since the proposed sign is to be located on property which is not part of the subdivision, the Sign Code classifies the sign as a "Billboard," rather than as a project development sign.

The Applicant is proposing that the height of the 24 square foot sign be twelve (12) feet above the road grade, with the base of the sign to be six (6) feet above road grade (10 feet is required by the Code). The sign would be located 35 feet from the intersection of Willoughby Beach Road and Broadneck Crossing Road (100 feet is required), with a proposed setback of 22 feet from the road right-of-way (35 feet required) for both roads. In addition, the sign would be located less than the required 300 feet from the entrance to a church (285 feet proposed) and less than the required 300 feet from the entrance to a public school (130 feet proposed).

The subject property is located at 2501 Willoughby Beach Road, Edgewood, at the southeast corner of Willoughby Beach Road and Broadneck Crossing Road, in the First Election District. The parcel is more specifically identified as Parcel No. 174, in Grid 3B, on Tax Map 66. The parcel is approximately 1.224 acres in size, all of which is zoned R2. The property is owned by August M. Spealman and Florence E. Spealman.

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Prior to the start of testimony at the hearing, the Applicant moved to amend the application to correct an error which originally described the subject property as having an R4/Urban Residential zoning classification, rather than the correct R2 classification. The Hearing Examiner determined that the defect was of a minor technical nature, and one that did not practically impair notice or proper procedure, and thereby Applicant's motion to amend the application to reflect the correct zoning classification was granted.

Mr. Jim Wolf, 5133 Fry Road, Upperco, appeared to testify and was qualified as an expert real estate developer. Mr. Wolf is a vice-president employed by Morris Wolf Enterprises, the parent company for the Applicant, LWR LLC and the developer of the Lord Willoughby's Rest subdivision. According to Mr. Wolf, the subdivision is being developed in four phases, which ultimately will include 275 housing units. Mr. Wolf testified that, while the project contains a small amount of frontage on Willoughby Beach Road, the initial phases of the project are accessible only from Broadneck Crossing. Mr. Wolf stated that the only proposed sign location that will give drivers along Willoughby Beach exposure to the project is at the Spealman property.

Accordingly, the Applicant has entered into a written agreement with the Spealman's (See Applicant's Exhibit No. 9) to place the sign in their front yard, at the corner of Willoughby Beach Road and Broadneck Crossing. The Spealman's are an elderly couple who did not appear at the hearing. Applicant's Exhibit No. 9 was proposed and accepted as evidence of the Spealman's intent to request the variance and to allow the Applicant to serve as their representative at the hearing. It was Mr. Wolf's testimony that if the sign is not located on the Spealman property, drivers looking for the subdivision will most likely drive right by Broadneck Crossing and then have to make a U-turn along Willoughby Beach Road once they realize they missed the turn. It is Mr. Wolf's contention that the only way to effectively market the property is to place the sign in the proposed location.

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Further, Mr. Wolf stated that the location of the property and its relationship to the access to the Lord Willoughby's Rest subdivision create unique circumstances which justify the request for the variance. Practical difficulty will result if the variance is denied, according to the witness, because the Applicant will not be able to effectively market the project and dangerous traffic conditions will result.

Mr. Anthony McClune, Manager, Division of Land Use Management for the Department of Planning and Zoning, appeared and testified regarding the Department's recommendation. According to Mr. McClune, if the proposed sign was to be located on the Applicant's own property, it would be defined as a project development sign and there would be no need for a variance. However, because the Applicant's desired location for the sign is on the Spealman property, the sign is classified as a "billboard" and the variance is necessary. Mr. McClune agreed with the testimony of Mr. Wolf regarding the desirability of a sign further west on Willoughby Beach Road than the Applicant's frontage on that roadway would provide. Mr. McClune indicated that most motorists looking for the subdivision would be traveling east on Willoughby Beach and would miss the turn onto Broadneck before they would see a sign placed on the Applicant's property. Interested drivers would then have to make a U-turn on Willoughby Beach to access the subdivision on Broadneck. This would create practical difficulty and potentially dangerous problems with traffic, according to Mr. McClune.

Mr. McClune further testified that the proposed sign would be located outside of the vision triangle which must be maintained at the subject intersection. The requirements for a project development sign provide that the sign be placed at least 10 feet back from the road right of way, with a height of no more than 10 feet above road grade. The proposed sign location meets the setback requirement for a project development sign, but would be two feet higher than required. The additional height is requested in order that the base of the sign can be raised two feet higher than usual, to improve visibility at the intersection. The Department did not believe there would be any difficulties created regarding the proposed sign's proximity to the church or to the school.

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Accordingly, the Department recommends approval of the requested variance, with the conditions that necessary permits and inspections be obtained, that the sign be maintained in good condition, and that the sign be removed four years from the date of the granting of the variance. The Department also agreed that a condition requiring landscaping around the sign would be appropriate. No witnesses appeared in opposition to the request.

CONCLUSION:

The Applicant is requesting a variance from the requirements of Section 219-15 of the Sign Code which sets forth the specifications for Billboard signs. Section 219-17 of the Harford County Code allows for the approval of a variance to these requirements if, “by reason of the configuration or irregular shape of the lot or by reason of topographic conditions or other exceptional circumstances unique to the lot or building, practical difficulty or unnecessary hardship results.”

The uncontradicted evidence supports the Applicant’s claim, and the Hearing Examiner finds, that the circumstances associated with the subject property in relation to the Applicant’s subdivision project are unique. The subject property is located on the corner of intersecting roadways. The subject property is not part of the Applicant’s project, yet it is effectively surrounded by the project on those sides not fronting on the roadways. It is this unique configuration of the subject property, together with the configuration of the Applicant’s property that create practical difficulty for the Applicant in attempting to locate a sign to market the project without disturbing the traffic flow along the adjacent roadways. The testimony and documentary evidence also support a finding that the granting of the Applicant’s request to place the proposed sign on the subject property will not impair the purpose of the Code, nor will it harm the public interest. To the contrary, placement of the sign on the subject property, which will be temporary, will likely aid motorists seeking to find the Applicant’s project, enabling them to take the most direct route to the project, without unnecessary and potentially disruptive and dangerous turning movements. There is no evidence to indicate that placement of the sign within the required setbacks will cause harm to the surrounding properties nor impede or impair the flow of traffic.

Therefore, it is the recommendation of the Hearing Examiner that the Applicant’s request

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for a variance from the provisions of Section 219-15 of the Harford County Code be approved to allow placement of one “billboard” sign (the size and shape of which effectively qualifies as a “project development” sign) on the subject property no less than six (6) feet above ground level, no taller than twelve (12) feet above road grade, no less than 35 feet from the road intersection, no less than 22 feet from the road right-of-way, no less than 130 feet from the entrance to the nearby public school, and no less than 285 feet from the nearby church. The variance shall be subject to the following conditions:

1. The Applicant shall obtain all necessary permits, inspections and approvals for the sign;
2. The sign shall be located on the subject property in conformance with the site plan identified and admitted as Applicant’s Exhibit 4;
3. The sign shall not exceed 24 square feet;
4. The Applicant shall submit a landscaping plan for review and approval by the Department of Planning and Zoning;
5. The sign itself and the accompanying landscaping shall be maintained in good condition by the Applicant;
6. The sign shall be removed no later than four (4) years from the date this decision becomes final.
7. The approval of this variance shall be limited to the current property owners, August and Florence Spealman, and to the Applicant only. Upon the proposed sale of the subject property to any party other than the Applicant, LWR LLC, the approval of the variance shall terminate.

Date JUNE 29, 2000

Valerie H. Twanmoh
Zoning Hearing Examiner